



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

DECISION AND REASONS

NAME: MCDONALD, Nicholas
DOC #: 747508
FACILITY: Airway Heights Corrections Center (AHCC)
DATE OF HEARING: July 31, 2019
TYPE OF HEARING: LT JUVBRD
PANEL MEMBERS: Jeff Patnode & Lori Ramsdell-Gilkey
FINAL DECISION DATE: August 14, 2019

This matter came before the above named Board Members of the Indeterminate Sentence Review Board (ISRB or the Board) for a release hearing in accordance with RCW 9.94A.730 or RCW 10.95.030. In preparation for the hearing, the Board reviewed Mr. McDonald's ISRB file. Nicholas McDonald appeared in person. Testimony was provided by Department of Corrections (DOC) Classification Counselor (CC) Ann Sawyer, who provided a summary of Mr. McDonald's behavior, programming, and community support/transition plans. Additional testimony was provided by Dr. Lara Strick.

CURRENT BOARD DECISION:

Based on the burden of proof set out in RCW 9.94A.730 or RCW 10.95.030(3)(f) and the totality of evidence and information provided to the Board, the Board does find by a preponderance of the evidence that Mr. McDonald is more likely than not to commit any new criminal law violations if released on conditions. Consequently, the Board finds Mr. McDonald not releasable. Mr. McDonald can resubmit a petition for review in April 2021.

NEXT ACTION:

Resubmit a petition for review in April of 2021. A new psychological report will be required for his next hearing.

REASONS FOR DECISION:

This was a deferred decision following a full Board discussion using a structured decision-making framework that takes into consideration: the statistical estimate of risk, criminal history, release history, ability to control behavior, responsivity to programming, demonstrated offender change, release planning, discordant information, and other case specific factors. Based on the requirements of RCW 9.94A.730 or RCW 10.95.030, the Board finds Mr. McDonald is more likely than not to commit a new crime even if released with conditions that are designed to help better prepare him for a successful re-entry into society. Mr. McDonald is determined to be not releasable based on the following:

- **Limited insight into risk factors.**

Mr. McDonald does not appear to fully understand his criminogenic needs/risk factors and as such, has not addressed them with programming. His explanation regarding his part in the murders (he denies drowning the boy or having any prior knowledge or planning for the murders) does not match file material. The discrepancy in his version of the murders in file material (including a confession) calls into questions his motivations, and associated risk and needs, for this crime.

- **Displays high risk behaviors.**

Mr. McDonald has committed numerous recent risk related infractions while in prison. In 2010 he committed three serious infractions; one for use of opiates, one for controlled substance paraphernalia (syringe), and one for refusing UA test. In 2012 he received another serious infraction for refusing a UA and in 2014 a positive drug test for opiates. In 2016 he incurred three serious infractions related to tattooing (one of which was gang related), and a positive drug test in 2017 for Sub Oxone. His 2017 drug use, following completion of Chemical Dependency Treatment programming, indicates he is not applying what he has learned in treatment to his daily life.

- **Assessed as a high risk for recidivism at this time.**

In his recent psychological evaluation, prepared for this hearing by Dr. Robtoy (dated November 14, 2018), the evaluator indicates “Mr. McDonald is a High Risk for recidivism at this time”. Dr. Robtoy further opines in her psychological assessment “it is difficult to offer recommendations for treatment/management as Mr. McDonald does not feel he needs to change despite there being many risk factors present in his case. As a result, his ability/willingness to benefit from treatment is considered poor”.

- **Lacks a detailed release plan.**

Mr. McDonald has been in prison his entire adult life. He does not have a well detailed release plan that includes housing, employment, and community supports that tie together in a cohesive supportive structure.

RECOMMENDATIONS:

Consistent with the treatment recommendations in his psychological evaluation, Mr. McDonald should pursue additional CD Treatment programming (possibly the Champion Program, Therapeutic Community, at AHCC). He would also benefit from further programming to modify his criminogenic thought processes and behavior, as well as developing a well thought out release plan. He could also benefit from vocational training offered at the Washington State Penitentiary if approved by DOC.

JURISDICTION:

Nicholas J. McDonald is under the jurisdiction of the Board on a February 21, 1996, conviction in Grays Harbor County Cause #95-1-00416-7 for Murder in the Second Degree, Counts I and II. The time start is February 21, 1996. The minimum term was set at 178 months (Count I) and 600 months (Count II) to run consecutively from a Sentencing Reform Act (SRA) range of 123 to 164 months (Count I) and 134 to 178 months (Count II). The maximum term is LIFE. Mr. McDonald has served approximately 278 months in prison and 193 days of jail time.

OFFENSE DESCRIPTION:

Around midnight on August 10-11, 1995, a married couple was shot and fatally wounded by their 16 year old son and Mr. McDonald. Mr. McDonald was initially outside the home, and after the shootings he entered the house to observe the female victim deceased and the male victim covered in blood and still breathing. The victims five year old son was clutching at the bodies of his mother and father (the victims) asking them not to be dead. Mr. McDonald then retrieved the .22 caliber rifle that had been used earlier and killed the male victim by shooting him in the head at close range.

After the killing of the male victim, Mr. McDonald went into the bathroom where he drown the five year old boy by holding him under the water until he was dead. Mr. McDonald and his co-defendant were the only individuals left alive in the house with the five year old boy.

PRIOR RISK RELATED/ CRIMINAL CONDUCT:

Mr. McDonald has two prior juvenile felonies; August 1993 Taking a Motor Vehicle, and October 1993 Theft in the Second Degree.

PROGRESS/BEHAVIOR:

CC Sawyer provided a summary of programming, behavior and other relevant activities for Mr. McDonald. She stated Mr. McDonald has a number of drug related infractions and summarized them for the Board. CC Sawyer stated Mr. McDonald has completed Redemption and Thinking for a Change, as well as his Associates of Arts Degree. She stated Mr. McDonald is not a behavior problem in the unit and has been working with good supervisor reports. CC Sawyer indicated he has family support in Grays Harbor County, and has discussed releasing on the Housing Voucher.

Mr. McDonald's version of the murder did not match file material. He indicated he did not kill the child, though he admitted to shooting the male victim in the head. He explained his numerous serious infractions related to drug use as the behavior of an addict in prison, "a gram

a day habit”. When asked about the recent 2017 drug use he appeared to minimize the behavior by explaining that Sub Oxone is a drug used to treat addicts, though he fully acknowledged he did not have a prescription and it was not his medication. He stated he does not want to return to Grays Harbor County and will likely access clean and sober housing in Spokane (Oxford House).

Dr. Strick indicated Mr. McDonald does have ongoing medical issues that would need to be addressed in the community. She stated she will be involved in that transition if Mr. McDonald is released.

JP:jas

July 31, 2019

August 14, 2019

August 27, 2019

cc: AHCC
Nicholaus MCDONALD
File



STATE OF WASHINGTON
DEPARTMENT OF CORRECTIONS
INDETERMINATE SENTENCE REVIEW BOARD
P.O. BOX 40907, OLYMPIA, WA 98504-0907

TO: Full Board

FROM: Jeff Patnode (jas)

RE: MCDONALD, Nicholas DOC #747508

Panel recommends: Find Mr. McDonald not releasable.

Next action: Resubmit a petition for review in April of 2021.

Agree	Disagree
<i>Jeff Patnode 8/14/2019</i> <i>Lori Ramsdell-Gilkey 8/14/19</i> <i>Elyse Balmert 8/14/19</i> <i>Kecia Rongen 8/14/19</i>	